

401 KAR 45:060. Special waste permit-by-rule.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.46, 224.50, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-305, 224.50-760

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to adopt administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires persons who establish, conduct, operate, maintain or permit the use of a waste site or facility to obtain a permit. This chapter establishes the permitting standards for special waste sites or facilities, and the standards applicable to all special waste sites or facilities. This administrative regulation sets forth the requirements for a special waste permit-by-rule.

Section 1. Permit-by-rule. Notwithstanding any other provision of this chapter, the following special waste sites or facilities shall be deemed to have a permit without the owner or operator having made application or registration with the cabinet, provided the operation is a practice common to the industry, is not in violation of 401 KAR 30:031, and does not present a threat or potential threat to human health or the environment:

- (1) Oil production brine pits and gas and oil drilling mud pits, during the active life of the pit, if the pit is subject to 401 KAR 5:090;
- (2) Temporary storage of special waste in piles;
- (3) Injection wells used for disposal of special waste subject to 401 KAR 5:090 or in compliance with an underground injection control permit issued by the U.S. EPA;
- (4) Surface mining impoundments and other special waste surface impoundments in substantial compliance with KPDES permits;
- (5) Surface impoundments that treat domestic sewage and that do not contain any industrial wastewater, or are publicly owned treatment works for the treatment of domestic sewage, if the facility is in compliance with the KPDES or NPDES permit;
- (6) Disposal of coal combustion fly ash, bottom ash, and scrubber sludge in an active mining operation, if the owner or operator of the mining operation:
 - (a) Has a mining permit issued under KRS Chapter 350 that includes the disposal of special waste; and
 - (b) Complies with the conditions of the mining permit; and
- (7) Beneficial reuse of coal combustion by-products as an ingredient or substitute ingredient in the manufacturing of products, including but not limited to, cement, concrete, paint, and plastics; antiskid material; highway base course; structural fill; blasting grit; roofing granules; and mine stabilization and reclamation material; provided that:
 - (a) The utilization of coal combustion by-products does not result in the creation of a nuisance condition;
 - (b) Erosion and sediment control measures consistent with sound engineering practices are undertaken;
 - (c) The use is not within 100 feet of existing streams, 300 feet of existing drinking water wells, or floodplains or wetlands, unless permission has been obtained from the appropriate regulatory agency;
 - (d) The generator characterizes the nonhazardous nature of the coal combustion by-products; and
 - (e) The generator submits to the cabinet an annual report that identifies the type and amount of waste released for reuse; the name and address of each recipient of waste; and the specific use, if known, each recipient made of the waste.

Section 2. Noncompliances. (1) The cabinet may take any appropriate enforcement actions, including corrective action or revocation, if a special waste permit-by-rule site or facility is not operating in substantial compliance with Section 1 of this administrative regulation.

(2) The cabinet may, at its discretion, require the owner or operator of a special waste permit-by-rule site or facility to upgrade the permit to a registered permit-by-rule to ensure that the requirements of this chapter and the environmental performance standards of 401 KAR 30:031 are met. (18 Ky.R. 3089; Am. 3437; eff. 6-24-92.)